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8  
9 **BEFORE THE**  
**BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 4456

12 **NATAYA VENUS VONGSIKHAY**  
13 **2101 W. Jefferson Street**  
14 **Banning, CA 92220**

**A C C U S A T I O N**

15 **Pharmacy Technician Registration**  
**No. TCH 97480**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
22 2. On or about December 31, 2009, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 97480 to Nataya Venus Vongsikhay (Respondent) which will expire  
24 on November 30, 2013 unless renewed.

25 **JURISDICTION**

- 26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of  
27 Consumer Affairs, under the authority of the following laws. All section references are to the  
28 Business and Professions Code unless otherwise indicated.

1           4.    Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
2   surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
3   disciplinary action during the period within which the license may be renewed, restored, reissued  
4   or reinstated.

5           5.    Section 480 of the Business and Professions Code provides, in pertinent part, that a  
6   board may deny a license if the applicant has been convicted of a crime substantially related to  
7   the qualifications, functions or duties of the business or profession for which application is made,  
8   has committed any act involving dishonesty, fraud or deceit, has committed any act which if done  
9   by a licensee would be grounds for suspension or revocation of a license, or has knowingly made  
10   a false statement of fact required to be revealed in the application.

11          6.    Section 482 of the Code states:

12                Each board under the provisions of this code shall develop criteria to  
13   evaluate the rehabilitation of a person when: (a) Considering the denial of a license by  
14   the board under Section 480; or (b) Considering suspension or revocation of a license  
15   under Section 490. Each board shall take into account all competent evidence of  
16   rehabilitation furnished by the applicant or licensee.

17          7.    Section 490 of the Code provides, in pertinent part, that a board may suspend or  
18   revoke a license on the ground that the licensee has been convicted of a crime substantially  
19   related to the qualifications, functions, or duties of the business or profession for which the  
20   license was issued.

21          8.    Section 493 of the Code states:

22                Notwithstanding any other provision of law, in a proceeding conducted  
23   by a board within the department pursuant to law to deny an application for a license  
24   or to suspend or revoke a license or otherwise take disciplinary action against a  
25   person who holds a license, upon the ground that the applicant or the licensee has  
26   been convicted of a crime substantially related to the qualifications, functions, and  
27   duties of the licensee in question, the record of conviction of the crime shall be  
28   conclusive evidence of the fact that the conviction occurred, but only of that fact, and  
29   the board may inquire into the circumstances surrounding the commission of the  
30   crime in order to fix the degree of discipline or to determine if the conviction is  
31   substantially related to the qualifications, functions, and duties of the licensee in  
32   question. As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,'  
33   and 'registration.'

34          9.    Section 4202 of the Code states in pertinent part: "(d) The board may suspend or  
35   revoke a license issued pursuant to this section on any ground specified in Section 4301."

10. Section 4300 of the Code states: “(a) Every license issued may be suspended or revoked.”

## STATUTORY PROVISIONS

11. Section 4301 of the Code states:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

“ . . .

"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not....

"(I) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment."

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1 Court of California, County of Los Angeles case number 2PS91638, in that Respondent pled  
2 Nolo Contendere to violation of Penal Code section 484(a): Theft, and was convicted. The  
3 circumstances are as follows:

4 16. On or about March 22, 2012, Arcadia Police Department Officer B. Jackson  
5 contacted a Loss Prevention Manager at the Victoria's Secret store on Baldwin Avenue in  
6 Arcadia. After receiving the report from store personnel, interviewing Respondent, and  
7 completing the investigation the officer placed Respondent under arrest and booked Respondent  
8 on various charges including PC 459 Commercial Burglary and PC 466 Possession of Burglary  
9 Tools.

10 17. On July 19, 2012, Respondent entered a plea of Nolo Contendere to Count One,  
11 violation of Penal Code section 484(a) Theft and was sentenced to serve twenty (20) days in  
12 County Jail, suspended, Summary Probation for a period of three (3) consecutive years, payment  
13 of fines and assessments, and other terms.

#### 14 DISCIPLINARY CONSIDERATIONS

15 18. To determine the degree of discipline, if any, to be imposed on Respondent Nataya  
16 Venus Vongsikhay, Complainant alleges that on or about March 12, 2012, in a prior action, the  
17 Board of Pharmacy issued Citation Number CI 2011 49853 and ordered Respondent to pay a fine  
18 of \$1,000.00. The basis for the citation was Respondent's arrest on September 28, 2011, by  
19 Ontario Police Department personnel after contacting Loss Prevention Personnel at Hennes &  
20 Mauritz store at the Ontario Mills Mall concerning allegations that Respondent and another  
21 violated PC section 496(a) Receiving Stolen Property. That arrest resulted in Respondent's  
22 conviction by pleas of Guilty as to violation of PC 459 Theft, a misdemeanor and violation of PC  
23 484(a) Petty Theft, a misdemeanor in the case *People v. Nataya Venus Vongsikhay*, San  
24 Bernardino County Superior Court case number MWV 1104237. For that conviction, judgment  
25 was withheld and Respondent was sentenced to Conditional and Revocable Release for twenty  
26 four (24) months along with other terms. That Citation is now final and is incorporated by  
27 reference as if fully set forth.

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1 **PRAYER**

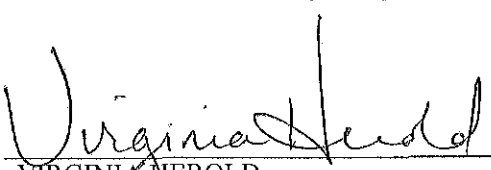
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Board of Pharmacy issue a decision:

4 1. Revoking or suspending Pharmacy Technician Registration Number TCH 97480,  
5 issued to Nataya Venus Vongsikhay;

6 2. Ordering Nataya Venus Vongsikhay to pay the Board of Pharmacy the reasonable  
7 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
8 Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

10  
11 DATED: 2/12/13

  
12 VIRGINIA HEROLD  
13 Executive Officer  
14 Board of Pharmacy  
15 Department of Consumer Affairs  
16 State of California  
17 Complainant  
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